

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 PM-04 INR-07 L-03 ACDA-07
NSAE-00 PA-01 SS-15 PRS-01 SP-02 USIA-06 TRSE-00
DODE-00 /059 W
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R 121314Z MAY 77
FM AMEMBASSY BONN
TO SECSTATE WASHDC 8202
INFO CINC USAFE RAMSTEIN
CINC EUR VAIHINGEN
CINC USAREUR HEIDELBERG

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E.O. 11652: N/A
TAGS: MILI, BGEN, GW
SUBJECT: DOD BANKING FACILITIES IN THE FRG

REF: STATE 92957 DTG 252203Z APR 77

1. EMBASSY BELIEVES THAT BY AN ADMINISTRATIVE AGREEMENT UNDER ARTICLE 72(4) OF NATO SOFA SUPPLEMENTARY AGREEMENT IT SHOULD BE POSSIBLE TO REPLACE AMERICAN EXPRESS CO., INC., AND CHASE MANHATTAN BANK, NOW LISTED IN RE ARTICLE 72(1)(A) OF PROTOCOL OF SIGNATURE, IF NECESSARY, BY OTHER AMERICAN BANK OR BANKS WHOSE PROPOSALS TO OPERATE 118 MBF'S IN FRG WOULD BE ACCEPTED BY DOD. HOWEVER, EMBASSY RECOMMENDS THAT EMBASSY BE AUTHORIZED TO RAISE THIS MATTER WITH FONOFF (RUMPF, LEGAL SECTION) TO ENSURE THAT THERE WILL BE NO LEGAL OR OTHER BAR TO ACCEPTABILITY TO FONOFF AND FINANCE MINISTRY OF OTHER BANKS REPLACING CURRENT ONES AS AMERICAN "NON-GERMAN COMMERCIAL ENTERPRISES" WITHIN MEANING OF ARTICLE 72(1).

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2. IN VIEW OF LENGTHY AND COMPLEX NEGOTIATIONS REQUIRED IN THE PAST FOR FRG AGREEMENT TO PERMIT MILITARY BANKS WITH CERTAIN RESTRICTIONS AND EXEMPTIONS FROM GERMAN LAW TO OPERATE IN FRG, WE SHOULD EXPECT THAT BANKS UNDER DOD AEGIS MUST OPERATE WITH THE RESTRICTIONS AND EXEMPTIONS PRESENTLY APPLICABLE TO AMEXCO AND CHASE MANHATTAN. REOPENING SPECTRUM OF

MBF ACTIVITIES AND EXEMPTIONS COULD RAISE CONSIDERABLE PROBLEMS AND EVEN JEOPARDIZE FRG WILLINGNESS IN 1977 TO CONTINUE PERMISSION FOR WHAT FRG AGREED TO IN 1959.

3. RE PARA 3 REFTEL, INVITATION FOR FRG BANKS TO ENTER PROGRAM TO PROVIDE MBF COULD CREATE REAL DIFFICULTIES, EVEN IF THEIR MBF'S WERE OWNED AND OPERATED BY SEPARATE LEGAL ENTITY UNDER FRG LAW. SUCH A POSSIBILITY COULD RUN AFOUL OF GERMAN LEGAL REQUIREMENTS

ALTHOUGH THESE CONSIDERATIONS MIGHT BE OUTWEIGHTED BY ATTRACTIVENESS TO FRG GOVERNMENT OF SEVERAL HUNDRED NEW POSITIONS AT MBF'S FOR OTHERWISE UNEMPLOYED GERMANS. HOWEVER, THAT EMPLOYMENT POSSIBILITY WOULD PRESUMABLY REMOVE FROM AVAILABILITY AN EQUAL NUMBER OF POSITIONS CURRENTLY HELD BY DEPENDENTS OF MEMBERS OF US FORCES AND CIVILIAN COMPONENT IN FRG.

4. ABOUT THREE YEARS AGO, AMEXCO WAS EXPERIENCING DIFFICULTIES WITH WORKS COUNCILS REPRESENTING ITS GERMAN EMPLOYEES, WHO OBJECTED TO DIFFERING FRINGE BENEFITS AND LOWER PAY SCALES FOR AMEXCO'S US EMPLOYEES FROM THOSE APPLICABLE TO ITS GERMAN EMPLOYEES PERFORMING ESSENTIALLY THE SAME TASKS. PROBLEM SEEMED POSSIBLY HEADED FOR THE LABOR COURTS, BUT NEVER ESCALATED TO THAT POINT SO FAR AS EMBASSY IS AWARE. BY NOTE VERBALE DATED MAY 6, 1977 FONOFF HAS TAKEN ISSUE WITH WORDING OF USAREUR REGULATION ON LOGISTIC SUPPORT LIMITED OFFICIAL USE

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FOR EMPLOYEES OF MBF'S AS NOT ENTIRELY CONSISTENT WITH ARTICLE 72 OF NATO SOFA SUPPLEMENTARY AGREEMENT. EMBASSY MENTIONS THIS ONLY TO DEMONSTRATE HOW CAREFULLY THE FEDERAL GOVERNMENT, EITHER AT ITS INITIATIVE, OR ON PROMPTING OF WORKS COUNCILS OR LABOR UNIONS, MONITORS THE PRACTICES OF THE MILITARY BANKS AT A TIME OF, FOR THE FRG, VERY HIGH UNEMPLOYMENT.

5. IN VIEW OF SITUATION SUMMARIZED IN PARA 4, EMBASSY DOUBTS THAT IT WOULD BE ADVISIBLE TO SUGGEST REVISION OF ARTICLE 72 THAT WOULD SEEK TO FORMALIZE CURRENT DE FACTO STATUS OF DEPENDENT MBF EMPLOYEES. SUCH AN APPROACH COULD FOCUS FRG SCRUTINY ON THE MATTER AND WHAT SHOULD BE MEANING OF EXEMPTIONS IN ARTICLE 72(1)(B) AND 72(5)(A) AND (B) IN CIRCUMSTANCES OF 1977. PROPOSAL AS IN PARA 4 REFTEL WOULD ALSO FLY IN FACE OF HISTORICAL RELUCTANCE OF US AND OTHER NATO SENDING STATES, WITH WHOM WE WOULD NEED TO CONSULT, TO SUGGEST REVISION OR AMENDMENT OF SUPPLEMENTARY AGREE-

MENT OF 1959, IN WHICH THESE STATES WERE ABLE TO OBTAIN

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MORE FRG CONCESSIONS THAN FRG COULD EVER AGREE TO NOW.

6. IN VIEW, HOWEVER, OF UNDERSTANDABLE WISH ON PART OF
DOD AND BIDDERS SEEKING TO ASSUME MBF FUNCTIONS, TO
KNOW WHETHER THEY COULD COUNT ON CONTINUED EMPLOYMENT
OF US DEPENDENTS BY MBF'S (WHO ARE PAID LESS THAN
GERMAN EMPLOYEES WITH FEW WITHDRAWALS IN VIEW OF
COVERAGE FOR U.S. SOCIAL SECURITY, HEALTH, ETC. AS
FAMILY MEMBERS OF THEIR MILITARY OR CIVILIAN COMPONENT
SPOUSES), EMBASSY WOULD AT MOST ADVISE THAT IT BE
AUTHORIZED OR INSTRUCTED TO RAISE THIS MATTER VERY
INFORMALLY WITH RUMPF OF FONOFF LEGAL SECTION. IN
THIS MANNER, RUMPF, WHO HAS LONG EXPERIENCE WITH
BACKGROUND OF THIS MATTER AND VIEWS OF OTHER MINISTRIES
WHO WOULD BE INVOLVED, COULD CONVEY HIS PERSONAL VIEWS
WHETHER APPROACH CONSIDERED IN PARA 4 REFTEL WOULD BE
COUNTER-PRODUCTIVE OR STANDS ANY CHANCE OF BEING
ACCEPTED. IN GENERAL, HOWEVER, RULE WILL PROBABLY
HOLD TRUE THAT FRG IS POLITICALLY IN NO POSITION NOW
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TO EXPAND ON SPECIAL RIGHTS AND PRIVILEGES ACCORDED
NATO SENDING STATES IN 1959.

7. CONCLUSION: MERE SUBSTITUTION OF OTHER US BANK(S)
TO REPLACE CURRENT BANKS OPERATING MBF'S IN THE FRG
WITH SAME RESTRICTIONS, TASKS AND EXEMPTIONS SHOULD IN
ITSELF RAISE NO PROBLEM VIS-A-VIS FRG GOVERNMENT AND
COULD PROBABLY BE DONE FAIRLY QUICKLY BY EXCHANGE OF NOTES
CONSTITUTING AN ADMINISTRATIVE AGREEMENT. HOWEVER, A
CHANGE OF EMPLOYERS AND CONSEQUENT PERIOD OF EMPLOYMENT
UNCERTAINTY AT MBF'S COULD AWAKEN SLEEPING DOGS AND
RAISE NEW PROBLEMS. WE BELIEVE THAT ANY FORMAL EFFORTS
TO QUALIFY GERMAN BANKS TO COMPETE FOR OPERATION OF
MBF'S AND TO CLARIFY STATUS OF US DEPENDENT EMPLOYEES
BY AMENDMENT OF NATO SOFA SUPPLEMENTARY AGREEMENT, COULD
CREATE SERIOUS PROBLEMS.
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